

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

MARLON BOWLES)
)
Plaintiff,)
)
vs.) Cause No: 1:20-cv-07413
)
ABBVIE INC.,)
)
Defendant.)

**PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT
AND PLAINTIFF'S STATEMENT IN RESPONSE TO COURT'S ORDER REGARDING
DEFENDANTS ABBVIE 1-100 AND ABBOTT 1-100 AND BRIEF IN SUPPORT**

COMES NOW, Marlon Bowles, Plaintiff in the above entitled and numbered cause and files his Motion for Leave to File Second Amended Complaint and Plaintiff's Statement in Response to Court's Order Regarding Defendants AbbVie 1-100 and Abbott 1-100. In support thereof, Plaintiff would respectfully show unto the Court the following:

On March 18, 2021 Defendants filed their Motion to Dismiss Plaintiff's Amended Complaint. Plaintiff moves to file his Second Amended Complaint within the time permitted to respond to Defendants' Motion to Dismiss Plaintiff's Amended Complaint. Rule 15 provides that "a party may amend its pleading [with] the court's leave" and that "[t]he court should freely give leave when justice so requires." Fed. R. Civ. P. 15(a)(2); *see also Barry Aviation Inc. v. Land O'Lakes Mun. Airport Commn.*, 377 F.3d 682, 687 (7th Cir. 2004). Rule 15 is a "mandate to be heeded." *Foman v. Davis*, 371 U.S. 178 (1962).

Allowing Plaintiff to file his Second Amended Complaint would serve justice and promote judicial efficiency, in part because the Second Amended Complaint addresses issues raised by

Defendants' most recent Motion to Dismiss. Additionally, on March 18, 2021, this Honorable Court ordered Plaintiff to address the inclusion of Defendants "AbbVie 1-100" and "Abbot 1-100" in his Original and Amended Complaints. After conferring with Counsel for Defendant, Plaintiff states that Defendants "AbbVie 1-100" and "Abbot 1-100" are nominal and dispensable, as Defendant AbbVie, Inc. has confirmed that AbbVie, Inc. is the correctly named defendant in the matter herein. Accordingly, Plaintiff moves for leave to file his Second Amended Complaint, which would dismiss Defendants "AbbVie 1-100" and "Abbot 1-100" in accordance with the Court's Order. Should the Court grant Plaintiff's Motion, there would be no substantial or undue prejudice, bad faith, undue delay, or futility.

For the foregoing reasons, Plaintiff respectfully requests that it be granted Leave to File its Second Amended Complaint, attached hereto as Exhibit A. Plaintiff intends for this Motion and the attached Second Amended Complaint to serve as his response to Defendants' March 18, 2021 Motion to Dismiss and respectfully requests that any additional response to Defendants' Motion to Dismiss be held until the Court rules on Motion for Leave to File Second Amended Complaint. A proposed order is included.

Respectfully Submitted,

Dated: April 13, 2021

VAN WEY, PRESBY & WILLIAMS, PLLC

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COUNSEL FOR PLAINTIFF

CERTIFICATE OF CONFERENCE

Counsel for Plaintiff, Ellen Presby, has conferred with Counsel for Defendant regarding the substance of this Motion for Leave to File Second Amended Complaint and Plaintiff's Statement in Response to Court's Order Regarding Defendants AbbVie 1-100 and Abbott 1-100. While Counsel for Defendants is in agreement with the substance of Plaintiff's Statement in Response to Court's Order Regarding Defendants AbbVie 1-100 and Abbott 1-100, Counsel for Defendants is opposed to Plaintiff's Motion for Leave to File Second Amended Complaint.

/s/ Ellen A. Presby
Ellen A. Presby